

REMARKS

In view of the following remarks, Applicant requests favorable reconsideration and allowance of the above-identified application.

Claims 1 and 2 are now pending in this application, with Claim 1 being the sole independent claim. By this Amendment, Applicant has canceled Claims 4 and 5.

Claims 1, 2, 4 and 5 stand rejected under 35 U.S.C. § 102 as being anticipated by European Patent Application No. 0 898 182 (Nakai).

As recited in independent Claim 1, Applicant's invention is directed to a diffractive optical element having a first layer having a relief-type grating, a second layer having a relief-type grating, and a third layer having a relief-type grating. Those layers are made of different materials. Also, the diffractive optical element is set so that, at 450 ± 20 nm, 550 ± 20 nm and 650 ± 20 nm, the diffraction efficiency thereof for diffractive light of a predetermined order is maximum.

The Office Action cites the Nakai application as describing all of the features of the present invention, including the diffractive optical element being set so that, for the wavelengths of 450 ± 20 nm, 550 ± 20 nm and 650 ± 20 nm, the diffraction efficiency thereof of a predetermined order is maximum. However, as discussed in that application at paragraph 41, the diffraction efficiency of a diffractive element becomes maximum at 410 nm and the wavelengths of the F-line (486.1 nm) and the C-line (656.3 nm). These values do not all fall within the ranges claimed in independent Claim 1.

Accordingly, Applicant submits that the Nakai application fails to disclose or suggest at least a diffractive optical element being set so that, at three wavelengths, the

diffraction efficiency thereof for diffractive light of a predetermined order is maximum, the three wavelengths being 450 ± 20 nm, 550 ± 20 nm and $650 \pm$ nm, as recited in independent Claim 1.

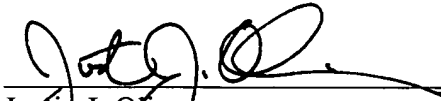
For the foregoing reasons, Applicant submits that independent Claim 1 is allowable over the applied document, and requests withdrawal of the rejection under 35 U.S.C. § 102.

Claim 2 depends from independent Claim 1, and thus is allowable over the applied document for the reasons noted above with respect to Claim 1. In addition, Claim 2 recites features of the invention still further distinguishing it from the applied document. Applicant requests favorable and independent consideration thereof.

This Amendment After Final Rejection is an earnest attempt to advance prosecution and is believed to clearly place this application in condition for allowance. Applicant also believes that the Amendment reduces the number of issues for appeal. This Amendment was not earlier presented because Applicant earnestly believe the prior Amendment placed the subject application in condition for allowance. Applicant requests entry of this Amendment under 37 C.F.R. § 1.116.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



Justin J. Oliver
Attorney for Applicant
Registration No. 44,986

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

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